



भारत का राजपत्र The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 456] नई दिल्ली, सोमवार, सितम्बर 17, 1984/भाद्र 26, 1906
No. 456] NEW DELHI, MONDAY, SEPT. 17, 1984/BHADRA 26, 1906

इस भाग में भिन्न पृष्ठ संख्या दी जाती हैं जिससे कि यह असंग्रहित संकलन के रूप में
रखा जा सके

Separate paging is given to this Part in order that it may be filed as a separate
compilation

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 17 सितम्बर, 1984

का. आ. 719(अ).—केन्द्रीय सरकार ने विधि विरुद्ध क्रिया-
कलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3
की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए तारीख
19 मार्च, 1984 को आल इंडिया सिख स्टूडेंट्स फेडरेशन को विधि
विरुद्ध संगम घोषित किया था ;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 5 की उप-
धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तारीख 16
अप्रैल, 1984 को विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण
गठित किया था जिसमें महाराज उच्च न्यायालय के न्यायमूर्ति
बी पी. आर. गोकुला कृष्णन थे ;

और केन्द्रीय सरकार ने उक्त अधिनियम की धारा 4 की उप-
धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उक्त अधि-

सूचना को, इस बात का न्यायनिर्णयन करने के प्रयोजनार्थ कि
उक्त संगम को विधि विरुद्ध घोषित करने के लिए पर्याप्त कारण
हैं या नहीं, 17 अप्रैल, 1984 को उक्त अधिकरण को निर्विष्ट
किया था ;

और उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की
उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, 8 सितम्बर,
1984 को आदेश पारित किया ;

अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उप-
धारा (4) के अनुसरण में उक्त अधिकरण का उक्त आदेश प्रकाशित
करती है, अर्थात् :—

आदेश

विधि विरुद्ध क्रियाकलाप (निवारण) अधिकरण के समक्ष
(अंग्रेजी में प्रकाशित अधिसूचना देखिए)

[सं. 2/17017/47/84-आई.एस. (यू. एस.-डी 2)]

डा. संदीप खन्ना, उप-सचिव

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 17th September, 1984

S.O. 719(E).—Whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967) declared on the 19th March, 1984 the All India Sikh Students Federation to be an unlawful association;

And whereas the Central Government, in exercise of the powers conferred by sub-section (1) of section 5 of the said Act, constituted on the 16th April, 1984 the Unlawful Activities (Prevention) Tribunal consisting of Shri Justice P. R. Gokulakrishnan, Judge of the Madras High Court ;

And whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 4 of the said Act, referred the said notification to the said Tribunal on the 17th April, 1984 for the purpose of adjudicating whether or not there was sufficient cause for declaring the associations as unlawful;

And whereas the said Tribunal in exercise of the powers conferred by sub-section (3) of section 4 of the Act made an order on the 6th September, 1984;

Now, therefore, in pursuance of sub-section (4) of section 4 of the said Act, the Central Government hereby publishes the said order of the said Tribunal, namely:—

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL, MADRAS

Thursday the Sixth day of September, One thousand nine hundred and eighty four.

PRESENT:

The Hon'ble Mr. Justice P. R. Gokulakrishnan.
(Judge, High Court of Judicature, Madras)

In the matter of a reference under Section 4(1) of the Unlawful Activities (Prevention) Act, 1967
(Central Act 37 of 1967)

and

In the matter of the All India Sikh Students Federation.

This reference coming on for inquiry under Section 4(3) of the Unlawful Activities (Prevention) Act, 1967, on the 6th and 13th days of August, 1984 in the Second Court Hall of the High Court Buildings, Madras and from 23rd to 25th, 27th and 28th days of August, 1984 at the Punjab Bhavan, New Delhi, in the presence of Mr. Anand Swarup, Advocate for the Central Government on all the days and of Mr. S. Sampathkumar, Advocate Madras on 6th and 13th days of August, 1984, Mr. Guru Charan Singh, Advocate New Delhi on 6-8-1984 and M/s Guru Charan Singh, Hardev Singh, Sodhi and Batalia, Advocates, New Delhi, on 23rd, 24th, 25th and 27th days of August, 1984, for the AISSF and the said Advocate of the AISSF having filed a memo dated 27th August,

1984, stating that the AISSF is withdrawing from the proceedings, the Tribunal pronounced the following

ORDER

P. R. GOKULAKRISHNAN, J.

The Central Government by Notification No. S.O. 169(E) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated 19th March, 1984, issued under sub-section (1) of Section 3 of the Unlawful Activities (Prevention) Act (Central Act 37 of 1967) (hereinafter referred to as the Act) has declared the All India Sikh Students Federation (hereinafter referred to as the AISSF) to be unlawful.

The Notification thus issued runs as follows:—

“Ministry of Home Affairs

Notification

New Delhi, the 19th March, 1984

S.O. 169(E).—Whereas the organisation known as the “All India Sikh Students Federation” (hereinafter referred to as the Federation):—

- (i) which has been organising training camps, meetings and conventions in different places where the activists of the Federation as well as others, have been delivering speeches which are prejudicial to the maintenance of harmony between the Hindus and the Sikhs and which tend to incite the Sikhs to equip themselves with arms and resort to force;
- (ii) Whose office-bearers and activists have extended support to the demand for Khalistan, a separate State in their utterances and by raising pro-Khalistan slogans;

And whereas the Central Government is of the opinion that for the reasons aforesaid, the All India Sikh Students Federation is an unlawful association;

And whereas the Central Government is further of the opinion that because of the speeches and other activities of the office-bearers and activists of the Federation, it is necessary to declare the Federation to be unlawful with immediate effect;

Now, therefore, in exercise of the powers conferred under sub-section (1) of Section 5 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), the Central Government hereby declares the “All India Sikh Students Federation” to be an unlawful association and directs, in exercise of the powers conferred by the proviso to sub-section 3 of the section, that this notification shall, subject to any order that may be made under section 4 of the said Act, have effect from the date of its publication in the Official Gazette.”

2. The Central Government, by another Notification dated 16th April, 1984, issued under sub-section (1) of section 5 of the Act, constituted this Tribunal and referred the Notification dated 19th March, 1984,

to this Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the AISSF as unlawful.

3. A reference to the relevant provisions of the Act will bring out clearly the nature and scope of the task that this Tribunal is called upon to perform.

Section 3 of the Act, which empowers the Central Government to declare any Association as unlawful, reads as follows:—

“Declaration of an association as unlawful:

(1) If the Central Government is of opinion that any association is, or has become, an unlawful association, it may, by notification in the Official Gazette, declare such association to be unlawful.

(2) Every such notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary;

Provided that nothing in this sub-section shall require the Central Government to disclose any fact which it considers to be against the public interest to disclose.

(3) No such notification shall have effect until the Tribunal has, by an order made under section 4, confirmed the declaration made therein and the order is published in the Official Gazette:

Provided that if the Central Government is of opinion that circumstances exist which render it necessary for that Government to declare an association to be unlawful with immediate effect, it may, for reasons to be stated in writing, direct that the notification shall, subject to any order that may be made under section 4, have effect from the date of its publication in the Official Gazette.

(4) Every such notification shall, in addition to its publication in the Official Gazette, be published in not less than one newspaper having circulation in the State in which the principal office, if any, of the association affected is situated, and shall also be served on such association in such manner as the Central Government may think fit and all or any of the following modes may be followed in effecting such service, namely :—

(a) by affixing a copy of the notification to some conspicuous part of the office, if any, of the association; or

(b) by serving a copy of the notification where possible on the principal office-bearers, if any of the association; or

(c) by proclaiming by beat of drum or by means of loud-speakers, the contents of the notification in the area in which the activities of the association are ordinarily carried on; or

(d) in such other manner as may be prescribed.”

4. An association will not become unlawful immediately the notification under Section 3(1) of the Act is issued. Such a Notification ordinarily shall come into effect only after a Tribunal, constituted under Section 5(1) of the Act, confirms the declaration so made in the Notification and publishes the order confirming the declaration in the Official Gazette. However, the Central Government is possessed with the power to give effect to the Notification from the date of its publication in the Official Gazette. The constitution of the Tribunal and its powers are dealt with in Section 5 of the Act and it reads thus:—

“5(1) The Central Government may, by notification in the Official Gazette, constitute as and when necessary, a tribunal to be known as the ‘Unlawful Activities (Prevention) Tribunal’ consisting of one person, to be appointed by the Central Government:

Provided that no person shall be so appointed unless he is a Judge of a High Court.

(2) If, for any reason, a vacancy (other than a temporary absence) occurs in the office of the presiding officer of the Tribunal, then, the Central Government shall appoint another person in accordance with the provisions of this section to fill the vacancy and the proceedings may be continued before the Tribunal from the stage at which the vacancy is filled.

(3) The Central Government shall make available to the Tribunal such staff as may be necessary for the discharge of its functions under this Act.

(4) All expenses incurred in connection with the Tribunal shall be defrayed out of the Consolidated Fund of India.

(5) Subject to the provisions of Section 9, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings.

(6) The Tribunal shall, for the purpose of making an inquiry under this Act, have the same powers as are vested in a civil court under the Code of Civil Procedure, 1908, while trying a suit, in respect of the following matters, namely :—

(a) the summoning and enforcing the attendance of any witness and examining him on oath;

(b) the discovery and production of any document or other material object producible as evidence;

(c) the reception of evidence on affidavits;

(d) the requisitioning of any public record from any court or office;

(e) the issuing of any commission for the examination of witnesses.

- (7) Any proceeding before the Tribunal shall be deemed to be judicial proceeding within the meaning of Sections 193 and 228 of the Indian Penal Code and the Tribunal shall be deemed to be a civil court for the purposes of Section 195 and Chapter XXXV of the Code of Criminal Procedure, 1898."

5. Immediately on the constitution of the Tribunal, the Central Government shall refer the Notification issued under Section 3(1) of the Act to the Tribunal for adjudication. The time within which the Notification has to be referred to the Tribunal and the procedure to be followed by the Tribunal on such a reference have been stated in Section 4 of the Act, which reads as follows :—

- "(1) Where any association has been declared unlawful by a notification issued under sub-section (1) of section 3, the Central Government shall, within thirty days from the date of the publication of the notification under the said sub-section, refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful.
- (2) On receipt of a reference under sub-section (1), the Tribunal shall call upon the association affected by notice in writing to show cause, within thirty days from the date of the service of such notice, why the association should not be declared unlawful.
- (3) After considering the cause, if any, shown by the association or the office-bearers or members thereof, the Tribunal shall hold an inquiry in the manner specified in Section 9 and after calling for such further information as it may consider necessary from the Central Government or from any office bearer or member of the association, it shall decide whether or not there is sufficient cause for declaring the association to be unlawful and make, as expeditiously as possible and in any case within a period of six months from the date of the issue of the notification under sub-section (1) of Section 3, such order as it may deem fit either confirming the declaration made in the notification or cancelling the same.
- (4) The order of the Tribunal made under sub-section (3) shall be published in the Official Gazette."

6. This Tribunal has, therefore, to decide whether or not there is sufficient cause for declaring the AISSF to be unlawful? It is, therefore, relevant to know what the Act means by the expression "unlawful association". Section 2(g) of the Act defines the expression "Unlawful association" and it reads thus :

" 'unlawful association' means any association—

- (i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or
- (ii) which has for its object any activity which is punishable under Section 153-A or Section 153-B of the Indian Penal Code, or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity....."

The proviso to the section is unnecessary for our purpose. The definition is a very wide definition. Any unlawful activity or any activity which is punishable under Section 153-A of the Indian Penal Code or any activity which is punishable under Section 153-B of the Indian Penal Code, is sufficient to make an association an unlawful association. This does not mean that the association should actually engage itself in any one of these activities. It is sufficient for an association to be declared an unlawful association if the association—

- (i) has any unlawful activity or any activity which is punishable under Section 153-A or 153-B of the Indian Penal Code, as its object; or
- (ii) encourages or aids other persons to undertake any unlawful activity or any activity which is punishable under Section 153-A or 153-B of the Indian Penal Code; or
- (iii) the members of the association themselves may undertake any unlawful activity or any activity which is punishable under Section 153-A or 153-B of the Indian Penal Code.

This, therefore, leads us to the definition of the expression "unlawful activity" and to the provisions of Section 153-A and 153-B of the Indian Penal Code.

Section 2(f) of the Act defines "unlawful activity" and it reads thus :

" 'unlawful activity' in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise),—

- (i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individual or group of individuals to bring about such cession or secession;
- (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India;"

This definition is again very wide. Any action taken by an individual or association—

- (i) to bring about the cession of a part of the territory of India; or
- (ii) to bring about the secession of a Part of the territory of India; or
- (iii) which disclaims the sovereignty and territorial integrity of India; or
- (iv) which disrupts the sovereignty and territorial integrity of India is considered as unlawful activity.

6. The action so taken by an individual or association need not necessarily result in the cession of a part of the territory of India or the secession of a part of the territory of India. An intention on the part of the individual or association to bring cession or secession; a support to any claim to bring about cession or secession and an incitement to any individual or of group of individuals to bring about cession or secession will amount to an unlawful activity. Likewise an intention on the part of an individual or association to disrupt the sovereignty and territorial integrity of India will also amount to an unlawful activity.

7. Any action so taken by an individual or association may be—

- (i) by actually committing a physical act; or
- (ii) by words, either spoken or written; or
- (iii) by signs; or
- (iv) by visible representations; or
- (v) by otherwise.

Section 153-A of the Indian Penal Code punishes a person who promotes enmity between different groups on grounds of religion, race, place of birth, residence, language, etc., and does acts which are prejudicial to maintenance of harmony. Sub-section (3) of the said section makes the offence more grave if it is committed in a place of worship.

Section 153-B of the Indian Penal Code renders a person, who makes imputations or assertions that are prejudicial to national integration, liable for punishment. If a person commits any such offence in any place of worship, he renders himself liable for severe punishment. In the background of the above provisions of the Act and the Indian Penal Code, this Tribunal has to adjudicate upon the Notification dated 19th March, 1984 marked as Ex. G-1 in the proceedings.

8. The reasons that necessitated the Central Government to form an opinion that the AISSF is an unlawful association are :

- (i) The AISSF has been organising training camps, meetings and conventions at different places where the activists of the AISSF as well as others have been delivering speeches which are prejudicial to the maintenance of harmony between the Sikhs and

Hindus and which tend to incite the Sikhs to equip themselves with arms and resort to force.

- (ii) The office-bearers and activists of AISSF have extended support to the demand for Khalistan, a separate Sikh State, in their utterances and raised pro-khalistan slogans.

9. According to the Central Government, the AISSF has been declared as an unlawful association because it comes within the definition of "unlawful association" as defined in Section 2(g) of the Act, i.e.,

- (i) The members of AISSF undertake activities which are punishable under Sections 153-A and 153-B of the Indian Penal Code; and
- (ii) The AISSF not only has for its object but also its members encourage other persons to undertake an unlawful activity as defined in the second part of sub-section (1) of section 2 of the said Act viz., the secession of a part of a territory of India from the Indian Union.

10. Before this Tribunal actually goes into the evidence, it would be more appropriate about the procedure to be followed by this Tribunal in an enquiry on a reference under Section 4(1) of the Act, the powers of the Tribunal and the rules of procedure and of evidence which this Tribunal has to adopt and how these have been followed, are briefly stated.

Sub-section (2) of Section 4 of the Act requires the Tribunal to issue notice to the association affected in writing, calling upon the association to show cause within thirty days from the date of service of such notices why the association should not be declared as unlawful. Rule 6 of the Rules framed under the Act prescribes the mode in which such a notice can be served on the affected association and further gives a discretion to the Tribunal that anyone or all the modes mentioned therein can be adopted. The rule also gives a further discretion to the Tribunal to serve the notice in any other manner as it deems fit. The AISSF was served with notice on 25-6-1984. The AISSF had thirty days time till 25-7-1984 to show cause against the Notification. No such cause was shown against the Notification by the AISSF within the time stipulated by the Act or subsequent thereto though the AISSF represented itself in the proceedings through counsel and took part in the proceedings.

Sub-section (3) of Section 4 of the Act requires the Tribunal to consider the cause, if any, shown by the association or the office bearers or members thereof and then to hold an enquiry in the manner specified in Section 9 of the Act. The AISSF not having shown cause on or before 25-7-84, against the Notification, the Tribunal decided to hold an enquiry, fixed the date of the preliminary hearing on 6-8-1984 and issued notice of preliminary hearing on the Central Government and the AISSF. On 6-8-1984, two counsel, one from Madras Bar Mr. S. Sampath Kumar and another from Delhi Bar Mr. Gruru Charan Singh appeared and filed Vakalat

on behalf of AISSF. The Central Government was represented by Mr. Anand Swarup. On 6-8-1984, the AISSF was served with a copy of all the documents relied on by the Central Government in support of its Notification. On that day, this Tribunal informed the counsel for both sides that the enquiry will commence from 13-8-84.

Section 9 of the Act states that subject to any rule that may be made under the Act, the procedure to be followed by the Tribunal in holding any enquiry under sub-section 3 of Section 4, shall, so far as may be, be the procedure laid down in the Code of Civil Procedure for investigation of claims. Order XVIII of the Code of Civil Procedure deals with the hearing of suit and examination of witnesses.

Rule 2 of Order XVIII of the Code of Civil Procedure states as follows:—

“On the day fixed for the hearing of the suit or on any other day to which the hearing is adjourned, the party having the right to begin shall state his case and produce his evidence in support of the issue which he is bound to prove.

(2) The other party shall then state his case and produce his evidence (if any) and may then address the court generally on the whole case

(3) The party beginning may then reply generally on the whole case.

(4) Notwithstanding anything contained in this rule, the Court may, for reasons to be recorded, direct or permit any party to examine any witness at any stage.”

Section 9 of the Act, therefore, clearly states that the procedure laid down in the Code of Civil Procedure is not strictly applicable to an enquiry under Section 4(3) of the Act, and that as far as possible and practicable, the procedure laid down in the Code of Civil Procedure, may be applied and followed in an enquiry under Section 4(3) of the Act.

Sub-section (5) of Section 5 of the Act says that subject to the provision of Section 9 of the Act, the Tribunal shall have power to regulate its own procedure in all matters arising out of the discharge of its functions including the place or places at which it will hold its sittings.

This Tribunal has, therefore, the power to regulate its own procedure including the place or places at which it will hold its sittings. This power of the Tribunal is controlled by Section 9 of the Act. Section 9 of the Act states that the enquiry under Section 4(3) of the Act should, as far as may be, in the procedure laid down in the Code of Civil Procedure.

11. This Tribunal on 6-8-1984, i.e. on the date of preliminary hearing has decided to hold its sitting on 13-8-1984 at Madras and thereafter from 23-8-1984 to 28-8-1984 at New Delhi and if need arises, to hold further sittings at Madras from 3-9-1984 to 6-9-1984. It was then suggested before this Tribunal that the enquiry may be had at Delhi or Chandigarh because all the witnesses on either side are either

at Amritsar or at Chandigarh. This Tribunal had informed the counsel for both sides that it had fixed its sittings and that the sittings will be as scheduled. This Tribunal directed the Central Government to file a list of witnesses. Accordingly, the Central Government filed a list of witnesses to be produced before this Tribunal, a copy of which was also given to the counsel for AISSF. This Tribunal thereafter informed the counsel for both sides that two witnesses viz., the Joint Secretary to the Government of India, Ministry of Home Affairs, who issued the Notification Ex. G-1 and Prithipal Singh, Deputy Supdt. of Police, who secured a copy of the constitution of the AISSF viz. Ex. G-4, will be examined on 13-8-1984 at Madras and the rest of the witnesses that will be produced before this Tribunal by the Central Government will be examined at Delhi. On 13-8-1984, the said two witnesses were produced by the Central Government and examined as G. Ws. 1 and 2 at Madras. It was represented by Mr. Sampath Kumar, counsel for AISSF, on that day, that most of the persons to be examined on the side of the AISSF are in jail and as such, the Tribunal may issue summons for their attendance to give evidence. It was made clear to the counsel that this Tribunal will not take up the responsibility of summoning the witnesses and it is for the AISSF to produce its witnesses, if any, and if felt necessary. This Tribunal, by virtue of the powers conferred by sub-section (5) of Section 5 read with Section 9 of the Act and Order XVIII of the Code of Civil Procedure, had regulated the procedure it will follow during the enquiry i.e. the respective parties should themselves produce their witness and that this Tribunal will not undertake the responsibility of summoning the witnesses and causing their production and that this Tribunal will sit at Madras on 13-8-1984 and at Delhi from 23-8-1984 to 28-8-1984 and if need be, again at Madras from 3-9-1984 to 6-9-1984.

12. Section 5(6) of the Act, of course, vests the Tribunal with the powers of a Civil Court under the Code of Civil Procedure for trying a suit in respect of summoning and enforcing the attendance of a witness and examining him on oath; the discovery and production of any document or other material object producible as evidence; the reception of evidence on affidavit; the requisitioning of any public record from any Court or office and the issuing of any commission for the examination of witnesses. These powers are conferred on the Tribunal in order to effectively exercise the powers conferred by Section 4(3) of the Act under which this Tribunal has the right to call for any further information from the Central Government or from any office bearer or member of the association. Unless and until the Tribunal is clothed with the powers of summoning of witness or causing the production of a document or material object or to receive affidavits in evidence or to send for records from any Court or examine any witness on commission, the Tribunal will not be in a position to gather the further information it requires and therefore, it cannot effectively discharge its functions under the Act. The Act, therefore, clothes the Tribunal with such power. But, that will not give a right to the association to compel the Tribunal to exercise those powers. It is left to the discretion of the Tribunal whether or not it should exercise such powers and whether the circumstances of the enquiry warrant such an exercise.

13. Having dealt with in detail, the procedure, which this Tribunal has prescribed in this enquiry, let me now deal with the nature of evidence that will be made available before this Tribunal in an enquiry of this nature and the procedure which this Tribunal had to adopt with regard to the reception of evidence, its admissibility, relevancy and proof.

Rule 3 of the Rules framed under Section 21 of the Act runs thus :

- “1. In holding an enquiry under sub-section (3) of Section 4 or disposing of any application under sub-section (4) of Section 7 or sub-section (8) of section 8, the Tribunal or the District Judge, as the case may be, shall, subject to the provisions of sub-rule (2), follow, as far as practicable, the rule of evidence laid down in the Indian Evidence Act, 1872.
2. Notwithstanding anything contained in the Indian Evidence Act, 1872 (1 of 1872), where any books of accounts or other documents have been produced before the Tribunal or the Court of the District Judge by the Central Government and such books of accounts or other documents are claimed by that Government to be of a confidential nature then, the Tribunal or the Court of the District Judge, as the case may be, shall not,—
 - (a) make such books of accounts or other documents a part of the records of the proceedings before it ; or
 - (b) allow inspection of, or grant a copy of, the whole of or any extract from, such books of accounts or other documents by or to any person other than a party to the proceedings before it.”

Thus, it is clear from this rule that the rule of evidence under the Indian Evidence Act is not strictly applicable to an enquiry before this Tribunal but the Tribunal, as far as practicable, follow the rule of evidence laid down in the Indian Evidence Act, 1872. The expression “as far as practicable” occurring in Rule 3 of the Rules framed under the Act gives a discretion to this Tribunal to apply the rules of evidence as far as possible and not strictly. An understanding of the nature of the enquiry before this Tribunal and the nature of evidence that will be available and placed before this Tribunal, is necessary before the evidence is discussed and analysed.

14. The Act is intended to achieve certain objects. In the statement of objects and reasons for promulgating the Act (Act 37 of 1967), it is stated thus :

“Pursuant to the acceptance by Government of a unanimous recommendation of the Committee on National Integration and Regionalism appointed by the National Integration Council, the Constitution (Sixth Amendment) Act, 1963, was enacted empowering Parliament to impose, by law

reasonable restrictions in the interests of the sovereignty and integrity of India on the :

- (i) freedom of speech and expression ;
- (ii) right to assemble peaceably and without arms ; and
- (iii) right to form associations or unions.

2. The object of this Bill is to make power available for dealing with activities directed against the integrity and sovereignty of India.”

From the statement of objects and reasons it is clear that this Act is intended to protect the sovereignty and integrity of India. Any association engaging itself in any activity which is directed against the sovereignty and integrity of India, may be declared unlawful by the Central Government by a Notification. The Central Government should, therefore, have sufficient material before it for forming an opinion that an association has become an unlawful association and issuing a Notification declaring it unlawful. These materials should be placed before the Tribunal during the enquiry to decide whether or not there is sufficient cause for declaring the association to be unlawful. The materials so placed before the Tribunal for its decision be direct evidence, indirect evidence and the reports gathered by the intelligence wing of the Government regarding the activities of the individual or the association. If the Tribunal comes to the conclusion that there is sufficient material for forming such an opinion by the Government, it has to confirm the Notification made and if it comes to the conclusion that the material is not sufficient to declare an association to be unlawful, it has to cancel the Notification.

15. The Central Government, to establish that it has sufficient material for forming the opinion and issuing the Notification dated 19th March, 1984, has examined as many as 27 witnesses and has filed 36 documents. The AISSF cross-examined all the witnesses but did not examine any witness on its side. It has also filed one document viz., the constitution of the AISSF framed in 1967.

16. It will be more appropriate at this stage to refer to the arguments advanced in support of the Notification dated 19th March, 1984. Mr. Anand Swarup, learned counsel appearing for the Central Government contended as follows :—

1. The enquiry is under a special enactment, which has for its object the preservation of the national integrity and sovereignty of India.
2. The definition of the expressions “unlawful activity” and “unlawful association” in Section 2(f) and (g) respectively of the Act, is wide enough to cover the association and its members and the act of the members of the association instigating others to commit unlawful activities.

3. The AISSF has not shown cause, either within thirty days from the date of notice or till date as to why it should not be declared as unlawful.
 4. The Notification dated 19th March, 1984 (Ex. G-1) clearly gives the reasons for declaring AISSF unlawful and the AISSF till date has not stated that its activists and others have not been delivering speeches prejudicial to the maintenance of harmony between Hindus and Sikhs and its office-bearers have not extended their support to Khalistan movement.
 5. The AISSF has not denied that it held Gurmat Training Camps, meetings and conventions nor denied the speeches made declaring the intention to have a separate Sikh State called Khalistan.
 6. The Code of Civil Procedure and the Indian Evidence Act are not wholly applicable in an enquiry before this Tribunal and this Tribunal has to adopt, as far as possible, the provisions of the Code of Civil Procedure and the Indian Evidence Act.
 7. The Central Government, apart from the eye witnesses and documentary proof, was able to collect through its law enforcing agency informations regarding the unlawful activities of the AISSF.
 8. After referring to Exs. G-14(a) and G-17(a), the learned counsel said that the AISSF gave an open threat of armed upsurge if any of the law enforcing agencies enter the Golden Temple and other Gurudwaras and this general threat has to be circumvented by planting sources inside the Gurudwaras in order to get information regarding the activities of the AISSF. The officers who collected such informations have spoken to it and this Tribunal has to take those informations as genuine and reasonable in the peculiar circumstances and situation prevailing in that part of the country and decide whether the cause shown is sufficient or not.
 9. The Anandpur Sahib Resolution is a forerunner for preaching secession in the various training camps, meetings and conventions.
 10. The evidence produced before this Tribunal clearly makes out that the AISSF wants to create a separate Sikh State seceding from the territory of India and also disharmony between Sikhs and Hindus.
 11. Khalsa Panth to dominate can only be in a separate State. Since our Constitution is secular in nature the reference to the domination of the Khalsa Panth in the meeting clearly indicate the intention of AISSF to create a separate Sikh State independent of Bharat.
 12. Sant Jarnail Singh Bhindranwale was firm in creating a separate State called Khalistan for purpose of preserving the Sikh religion without the domination of Hindus. The evidence on record clearly proves that Sant Jarnail Singh Bhindaranwale patronised the AISSF.
 13. The word "Quam" occurring in the evidence before this Tribunal, means "a nation".
- The learned counsel for the Central Government referring to the procedure adopted by an earlier Tribunal constituted in 1982 under the Act for deciding the Notification declaring Dal Khalsa and National Council of Khalistan unlawful, analysed the direct oral evidence, direct documentary evidence and indirect documentary evidence to substantiate that the AISSF preached secession of a part of the territory of India and also created disharmony between Sikhs and Hindus an offence punishable under Section 153-A and 153-B of the Indian Penal Code.
17. The points for decision are :—
 1. Whether the Notification dated 19th March, 1984 and constitution of this Tribunal are in accordance with the provisions of the Act ?
 2. Whether the AISSF has been organising training camps, meetings and conventions in different places where the activists of the AISSF as well as others have been delivering speeches which are prejudicial to the maintenance of harmony between the Sikhs and Hindus and which tend to incite the Sikhs to equip themselves with arms and resorts to force.
 3. Whether the office bearers and activists of the AISSF have extended their support to the demand for Khalistan, a separate Sikh State, in their utterances and by raising pro-Khalistan slogans ?

and

 - 4. Whether there is sufficient cause for declaring the AISSF as an unlawful association ?
18. POINT No. 1.—As per Section 3 of the Act, the Central Government, if it is of opinion that any association is, or has become, an unlawful association, has to issue a Notification in the Official Gazette declaring such an association to be unlawful. The Ministry of Home Affairs, Government of India, issued a Notification dated 19th March, 1984 (Ex. G-1) declaring the AISSF as an unlawful association. This satisfies the requirement of Section 3(1) of the Act. As per Section 3(2) of the Act, every such Notification shall specify the grounds on which it is issued and such other particulars as the Central Government may consider necessary. Ex. G-1 states the grounds and in my opinion, Section 3(2) of the Act has also been satisfied. The Proviso to Section 3(3) of the Act empowers the Central Government to bring into operation the Notification even before the Tribunal appointed under the Act confirms the

declaration made in the Notification. Ex. G-1. (a) reads thus :—

“Whereas the Central Government is further of the opinion that because of the speeches and other activities of the office bearers and activists of the AISSF, it is necessary to declare the AISSF to be unlawful with immediate effect.”

Ex. G-1(a) satisfies the requirements for invoking the emergency provision. Section 3(4) of the Act deals with publication of such Notification. Ex. G-1 has been duly published, which has been made clear by G.W.1, the Joint Secretary in the Ministry of Home Affairs, Government of India, who deals with matters relating to national security, communal harmony, national integration, etc. He came across reports about the activities of the AISSF from the Government of Punjab, Chandigarh and Delhi Administration and on such reports, it was decided that action has to be taken against the AISSF under Section 3 of the Act. He also speaks about the issue of Ex. G-1 Notification. In his evidence he has given valid reasons for invoking the emergency provision viz., Proviso to Section 3(3) of the Act. He has specifically stated that during the days immediately preceding the date of issue of Ex. G-1, the activists of the AISSF has taken a definite turn towards militancy, anti-national activities, etc., and that there were reports that the AISSF may indulge in large scale violence calling upon the youth to disrupt communal harmony in support of their demand for Khalistan. G.W.1 has given in his evidence the names of as many as 26 newspapers in which such a notification has been published. Ex. G-3 contains the names of the newspapers in which such a publication has been made. Some of the newspapers containing the notification have been filed.

19. As per section 4 of the Act, the Central Government shall, within thirty days from the date of publication of the notification Ex. G-1, must refer the notification to the Tribunal for the purpose of adjudicating whether or not there is sufficient cause for declaring the association unlawful. G.W. 1 has stated that this Tribunal was constituted on 16-4-84 and that the appointment of this Tribunal was announced by the notification dated 16-4-1984 published in Gazette of India, marked as Ex. G-2. Mr. S. Sampath Kumar, learned counsel for the AISSF cross-examined G.W.1 on behalf of the AISSF. In the cross-examination, G.W. 1 has reiterated the reasons for putting the notification into immediate effect even before the Tribunal constituted under the Act confirming it. Thus, the evidence of G.W.1 is clear and cogent with regard to the Notifications under Sections 3 and 4 of the Act. Hence, I hold that the issue of Notification under Section 3 of the Act and the constitution of the Tribunal under section 4 of the Act have been done in accordance with the provisions of the Act.

20. POINT No. 2.—G.W.2, Pritpal Singh is a retired Deputy Supdt. of Police, special Branch C.I.D., Punjab at Chandigarh and he filed the constitution of the AISSF which has been marked as Ex. G-4. Its English translation is Ex. G-4(c). Mr. S. Sampath Kumar, learned counsel for the

AISSF in the cross-examination suggested to witness that the constitution of the year 196 viz., Ex. F-1 is the real constitution of the AISSF. G.W.2 has denied knowledge of Ex. F-1 and asserted that he knows only Ex. G-4 which is the constitution of the AISSF headed by Bhai Amrik Singh. In the cross-examination, G.W. 2 has specifically stated that the AISSF headed by Bhai Amrik Singh was the source of danger to peace, communal harmony and engaged in secessionist activities and that it was under the influence of Sant Jarnail Singh Bhindranwale. G.W.2 has denied the specific suggestion put by Mr. S. Sampath Kumar that Ex. F-1 is the constitution of the AISSF. G.W.2 when cross-examined with regard to Article 2(C) of Exs. G-4 and G-4(a), stated that Article 2(C) runs thus :—

“To awaken a sense of separate entity and nationality amongst Sikh students, etc.”.

that such a version is there in Exs. G-4 and G-4(a), that “Whakri Hasti” in Punjabi means “separate entity” and “Adri Komiathi” in Punjabi means “separate nationality”, that separate nationality means separate nationhood and that separate nationhood means separate nation for the Sikhs independent of our Bharath. Article 2(C) of Ex. G-4, the constitution of the AISSF runs thus :—

“To awaken a sense of separate entity and nationality among Sikh students and to prepare them for the creation of such atmosphere in which our national sentiments flourish.”

Apart from the evidence of G.W. 2, making it clear that such an aim incorporated in the constitution of the AISSF establishes that the AISSF wants to have a separate Sikh State independent of Bharat, it is also clear from such wordings of the constitution. Ex. Ex. G-4 and G-4(a), that the AISSF aims at creating a separate nation independent of Bharath. This means secession from the Indian nation and such a proposition will clearly attract the mischief of Section 2(f)(i) of the Act.

21. Mr. Anand Swarup, learned counsel for the Central Government pointed out that the evidence on record and also the aims of the constitution of the AISSF, as spelt out in Article 2(C), clearly show that the Sikhs wanted to have their own religion come up and their own national sentiments flourish under the banner of religious sentiments. Such a State cannot be considered as one within our Indian nation since our Constitution is secular in nature and in it there is no ground for establishing a State based on religion. Hence, according to the learned counsel for the Central Government, the aims of the constitution. Ex. G-4, the slogans raised by the AISSF and the evidence on record amply establish that the AISSF wants to secede from the Indian nation by establishing a separate State called Khalistan. Apart from the above argument based on Exs. G-4 and G-4(a) it has been suggested in the cross-examination of G.W. 2 by the learned counsel for the AISSF that Ex. F-1 alone is the constitution of AISSF. Even in Ex. F-1, Article 2(c) reads as follows :—

“To arouse consciousness of their separate entity and nationality amongst the Sikh students and to prepare and train them for the creation of an environment in which our

national expression can find its full satisfaction."

Basically, I do not find any difference between the two clauses referred to above. Both of them clearly establish that the AISSF wants to have an independent State seceding from the Indian Union. The evidence of G.W. 2 is clear and categoric to the effect that it is Exs. G-4 and G-4(a) that is the constitution of AISSF in question and hence, I am not inclined to hold that Ex. F-1 is the constitution of the present AISSF. The evidence on record and the interpretation of Exs. G-4 and G-4(a), especially Article 2(C) thereof, clearly establish the aims of the AISSF which are to the effect that the Sikhs want to secede from Indian Union in order to preserve their own separate entity and separate nationality and to have an atmosphere in which the Sikhs national sentiments will flourish.

22. G.W. 4, Joginder Singh was the Inspector of Police, CID, Amritsar in charge of Sikh Section. He speaks about the procession taken out at Amritsar on 31st May, 1981 by the AISSF, Dal Khalsa, Nihang Group and other Sikh Organisations. In respect of such a procession, G.W. 4 sent a report to his superiors, which is marked as Ex. G-7. Its English translation is Ex. G-7(a). In that report, G.W. 4 has stated that the procession started at 12.40 P.M., under the guidance of acting Jathedar, Shri Akal Takhat Sahib and there were as many as 45 leading personalities seen by him. G.W. 4 definitely states that Serial Nos. 16, 17, 19, 20, 21, 22, 24, 26 and 27 mentioned in Ex. G-7(a) are members of AISSF. According to G.W. 4, the processionist raised the following slogans:

1. Na Hindu Na Hindustan. Ban Ke Rahega Khalistan (Neither Hindus nor Hindustans but Khalistan will certainly come into existence).
2. Khalistan Zindabad.
3. Tiranga Lah Deange—Kesari Chara Deange (Pull down the national tricolour flag and hoist kesari flag).
4. Dhoti Topi Jamuna Par (Dhoti Topi should go beyond Jamuna).

Such slogans raised by the crowd have also been made mention of in Exs. G-7 and G-7(a). It is the further evidence of G.W. 4 that the participants in the procession were armed with swords, parchars, guns and lathis and also caused injuries to several persons on their way. At a particular place in front of Suraj Transport Co., eight or nine Hindus, who were standing, were chased by the participants, but the Hindus ran away. They injured one Mohander Pal, who is a spare parts dealer. It is the further evidence of G.W. 4 that AISSF was that of Sant Jarnail Singh Bhindaranwale and he used the activists to carry on terrorist activities. G.W. 4 actually attended the meeting addressed by several speakers and in that meeting Sant Jarnail Singh Bhindaranwale thanked the participants for responding to the call given by AISSF.

When cross-examined by Mr. Hardev Singh, learned counsel for the AISSF, G.W. 4 has stated that between 6.00 and 7.00 P.M. great tension prevailed between Hindus and Sikhs and the Hindus, who were

standing on the road, were manhandled by the Sikhs. It is the further evidence of G.W. 4 in the cross-examination that apart from Sant Jarnail Singh Bhindaranwale, one Bhai Amrik Singh, who was the founder of AISSF, also spoke. Nothing has been elicited in the cross-examination of G.W. 4 to discredit his testimony. Thus, the evidence of G.W. 4 and his report Exs. G-7 and G-7(a) amply establish that the intention of the procession taken out in Amritsar and the meeting on 31st May, 1981, were to achieve the aims which they raised in the slogans. The first slogan clearly states that neither Hindus nor Hindustan but Khalistan will certainly come into existence. The second slogan clearly mentions Khalistan Zindabad. The third slogan is that the tri-colour national flag has to be pulled down and instead Kesari flag has to be hoisted. These are all clear utterance towards secession from Indian nation.

23. G.W. 5, Surjit Singh Bians is the Senior Superintendent of Police, Sangrur. He speaks about the report given by Sardar Bachan Singh, Deputy Superintendent of Police, Headquarters, Amritsar. Sardar Bachan Singh interrogated Bhai Amrik Singh, President of AISSF, and other extremists under the direct supervision of G.W. 5. The signed report of Sardar Bachan Singh is Ex. G-8 and that G.W. 5 is aware of his signature. It is in the evidence of G.W. 5 that Sardar Bachan Singh, his wife, daughter, son and two of his gunmen were killed by the extremists. According to G.W. 5, Sardar Bachan Singh planted his own son Hira in the AISSF and through him he was able to collect 80 per cent of the information. In Ex. G-8 it is stated that Harminder Singh Sandhu, General Secretary of AISSF, addressed the gathering and said that today at the time of the Independence Day Celebrations at Gandhi Ground and Chowk Baba Saheb, the dishonour of the national flag should be done by any means and the national flag has to be torn in the presence of public. He further addressed that the co-operation of the public should be sought to get Khalistan. It is further stated in Ex. G-8 that on the eve of termination of Independence Day function, Mana Singh son of Kulwant Singh, Jat, resident of Sohian Police Station, Majitha, went towards the national flag post and tried to raise slogans of Khalistan. He was over-powered by the Asstt. Sub Inspector Mohan Singh (G.W. 6) and other security staff G.W. 5 further states that the AISSF was raising Khalistan slogans and wanted to create a Sikh State known as Khalistan. In the cross-examination it has been elicited by Mr. Guru Charan Singh, learned counsel for AISSF, that G.W. 5 certainly knows that AISSF demanded the formation of Khalistan and that its intention is clear from the slogans raised, which are to the effect that Khalistan Zindabad, Ban Ke Rahega Khalistan (Khalistan must come into existence). It has also been elicited in the cross-examination of G.W. 5 that both by his personal source and through Government, he came to know that himself and Sardar Bachan Singh were in the hit-list of Sant Jarnail Singh Bhindaranwale. It has been further elicited that Sant Jarnail Singh Bhindaranwale was supplying Fiat car and other assistance to the AISSF. I do not find anything worth mentioning in the cross-examination of G.W. 5 to discredit his testimony. From Ex. G-8 and also from the evidence of G.W. 5 it has been amply made out that the AISSF is working for the creation of a separate Sikh State known as Khalistan.

24. G.W. 6 Mohan Singh, Assistant Sub Inspector, Security Staff, Office of the Senior Superintendent of Police, Sikh Section, Amritsar, caught hold of Mana Singh mentioned in Ex. G-8 before the latter could deficit the national flag. G.W. 6 has stated in his evidence that from his source he learnt that the members of AISSF will visit Baba Chowk and Guru Nanak Stadium, where the Independence Day Celebrations were to take place, try to dishonour the national flag by tearing or burning it and that they will raise slogans "Khalistan Zindabad". At 11 10 A.M., on 15th August, 1982, G.W. 6 was present in Guru Nanak Stadium. When the Independence Day Celebrations came to a close, Mana Singh, who had pamphlets in his hands, went towards the national flag, raised slogans and tried to pull down the national flag and at that time, G.W. 6 caught hold of him. Regarding this incident, G.W. 6 has sent a report. The original report is in the court file. Its photostat copy is Ex. G-9. Ex. G-9(a) is its English translation. In Ex. G-9(a), I am able to see the very same version given by G.W. 6 in his evidence regarding the incident at Guru Nanak Stadium. G.W. 6 has stated that two pamphlets were recovered from Mana Singh, one of which is Ex. G-10, the English translation of which is Ex. G-10(a). It has been further stated by G.W. 6 in the cross-examination that Mana Singh raised Khalistan slogans, distributed copies of Ex. G-10 and ran towards the national flag and at that time, he was taken into custody. It is clear from the above evidence of G.W. 6 that Mana Singh is a member of AISSF and that he raised pro-Khalistan slogans and went towards the national flag for the purpose of pulling it down and tearing it. Nothing has been elicited in the cross-examination of G.W. 6 to discredit his testimony. It has not even been suggested to him that he was not present at the time of he said incident. This incident clearly establishes that a member of AISSF clearly advocate secessionist slogans and went to the extent of dishonouring the national flag by pulling it down and tearing it and at that time, he raised pro-Khalistan slogans attaching the mischief of Section 2(f) (i) of the Act.

25. G.W. 7 Hardish Singh Randhawa, Deputy Supdt. of police, Detective, Kapurthala, is the person who investigated the F.I.R. registered on the basis of Ex. G-9. Ex. G-9 report was given by G.W. 6. G.W. 7 interrogated Mana Singh, Amarjit Singh, Sawinder Singh and Satwau Singh. In his evidence G.W. 7 clearly states that Mana Singh is an active member of the AISSF and was taking part in the meetings of the AISSF in the complex of Harmander Sahib. Mana Singh has admitted during G.W. 7's interrogation that he went to Guru Nanak Stadium on the Independence Day and was seated on the staircase of the stadium, that he shouted AISSF Zindabad, Khalistan Zindabad and threw pamphlets. It is also in his report that some of the activists went to Chowk Baba Sahab, threw pamphlets and raised slogans like AISSF Zindabad, Khalistan Zindabad. This was disclosed by Amarjit Singh. Satwan Singh disclosed to G.W. 7 that on 15-8-1982 he was present in the Golden Temple Complex, that he was directed to accompany other young persons who were deputed to throw pamphlets in the Independence Day Celebrations, that he went along with the other persons, that while he was throwing pamphlets alongwith others and raising slogans AISSF Zindabad, and Khalistan Zindabad, he was

arrested along with others by the B Division police, Amritsar. In the course of cross-examination by Mr. Sodhi, learned counsel for the AISSF, G.W. 7 specifically stated that the accused persons whom he interrogated, have instigated the people to raise slogans, that there is only one AISSF and that it is having units in all the districts in Punjab. Nothing has been elicited from this witness to show that he did not interrogate these persons and that the persons interrogated by him are not the members of AISSF. His evidence, as it stands, establishes the activities of AISSF through its members and such members were raising slogans such as Khalistan Zindabad, etc. These activities clearly indicate secessionist propaganda carried on by the AISSF.

26. G.W. 11, Sardara Singh, Assistant Sub Inspector (Retired), brought Bhai Amrik Singh, President of AISSF, and one Bhai Tara Singh, his companion, to the District Court, Amritsar for their appearance in court on 16th July, 1983. When these persons were outside the Court, they raised slogans "Khalistan Zindabad", "Lai Ke Rahenge Khalistan, Punjab Police Murdabad, Punjab Government Murdabad". Then, both of them addressed their supporters numbering about 200 to 250, and said that it is the opportune time to create Khalistan. They said that India is not their country and that the Constitution of India is not their Constitution. It is further in the evidence of G.W. 11 that both Bhai Amrik Singh and Bhai Tara Singh said that Quam should give maximum sacrifice so that Khalistan can be created, that they also told their supporters that they should acquire maximum number of arms possible so that they are able to dislodge the Government of India, that if the police kills one of their men, they should kill four police men. This witness was cross-examined by Mr. Guru Charan Singh, learned counsel for AISSF. There is absolutely, no suggestion to the effect that G.W. 11 was not present on the spot when such slogans were raised and that Bhai Amrik Singh and Bhai Tara Singh were not brought to Amritsar District Court on the particular day. No doubt, in the cross-examination it has been elicited from G.W. 11 that he heard through radio and read in newspapers that Bhai Amrik Singh and Bhai Tara Singh were killed in military operations.

27. G.W. 12 Udham Singh, Sub Inspector of Police, Civil Line, Amritsar, was on duty on 16th July, 1983 in the District Court, Amritsar, in connection with the maintenance of law and order because of the appearance of Bhai Amrik Singh in the Court on that day. G.W. 12 corroborates the evidence of G.W. 11 in all material aspects. He also says that Bhai Amrik Singh and Bhai Tara Singh, when they came out of the Court, raised slogans "Khalistan Zindabad, Lai Ke Rahenga Khalistan, Punjab Police Murdabad, Punjab Government Murdabad". He further says that these two persons, while addressing the gathering outside the Court, said that that was the opportune time for the creation of Khalistan, that India (Bharat) is not their country, that they do not owe allegiance to its Constitution, that they should give utmost sacrifice and collect illicit arms so that they can dislodge the Government from power and that if the police kills one of their men by torture, they should kill four police men. G.W. 12 wrote a report on such happenings and sent the same to the police station. Ex. G-15 is the F.I.R., based on the report made by G.W. 12.

Ex. G-15(a) is its English translation. Even though the Sub Inspector who registered Ex. G-15 is not examined G.W. 12 recognises the writing and signature in Ex. G-15 as that of the Assistant Sub Inspector Jagir Singh. Ex. G-16 is the original report sent by G.W. 12, which formed the basis for Ex. G-15. The photostat copy of Ex. G-16 is Ex. G-15(a) and its English translation is Ex. G-16(b). Nothing has been elicited by Mr. Guru Charan Singh, learned counsel for AISSF, in the cross-examination of G.W. 12 to discredit his testimony. There is absolutely no suggestion in his cross-examination to the effect that he was not present at the time of this incident nor was he on duty at the relevant time. Thus, from the evidence of G.Ws. 11 and 12 and from Exs. G-15(a) and G-16(b), it is clear that Bhai Amrik Singh and Bhai Tara Singh have raised pro-Khalistan slogans, preached secession by their speech and instigated the mob to arm themselves in order to create a separate Khalistan. It is also clear from their speech that they owe no allegiance to India or its Constitution. Thus, their evidence clearly makes out the intention and aim of the AISSF is seceding from the territory of India for the purpose of forming a separate State called Khalistan.

28. G.W. 13, Rajinder Singh, Sub Inspector/Language Stenographer, CID, Patiala, covered the convention of AISSF held on 18th February, 1984 in front of Gurdwara Dukh Niwaran Sahab, Patiala. This convention was organised by Harbinder Singh Khalsa, Vice President of AISSF, and was attended by 2,000 to 2,500 people. The notes prepared from the shorthand notes taken in Gurmukh script is Ex. G-17 and its English translation is Ex. G-17(a). The shorthand note book is Ex. G-18. From his memory G.W. 13 states that Harchand Singh Bhablan moved the main resolution to the effect that they should go to the villages and propagate about the firing made by C.R.P.F., at Harmandir Sahab and ask the people to keep ready to combat the security force when occasion arises. G.W. 13 also states that after Harchand Singh Bhablan, one Harbinder Singh Khalsa, Vice President of the AISSF, addressed the gathering, that he, apart from other utterings, raised slogan "Khalistan Zindabad" and said that if the police enters Dharbar Sahab, they would reduce Delhi to ashes. For the slogan Khalistan Zindabad and that Delhi will be reduced to ashes, raised by Harbinder Singh Khalsa, the whole audience responded.

In Ex. G-17(a), it is stated by G.W. 13 that Karnail Singh spoke as follows :—

"We want to lead an honourable life. We want to have such a region in India where we can feel the glow of freedom".

Apart from other things, it is further stated in Ex. G-17(a), that Col. Bhagat Singh of Chandigarh had stated as follows :—

"We have made 90 per cent sacrifices to liberate the country. So, it becomes our right that we should have been given a separate region so that we could enjoy the benefits of liberty."

It is further stated in Ex. G-17(a) that Sukhjinder Singh spoke as follows :—

"There is no other nation in the world which has no homeland but here even our religion is not secure... If you have no territory of your own, you would be ruined."

The next speaker, according to Ex. G-17(a) is Sardar Gurucharan Singh Tohra, who addressed as follows :—

"The patriots of the day were branded as extremists by the pro-independence Government. So, you should feel yourself proud being called as extremists and recessionists."

In this report it has also been stated that slogans have been raised and one of the slogans was Long Life Khalistan.

G.W. 13 was cross-examined by Mr. Guru Charan Singh, learned counsel for AISSF. Nowhere it has been suggested to G.W. 13 in the cross-examination that he did not attend the convention on the particular day. Further, no suggestion has been made to the effect that slogans were not raised by Harbinder Singh Khalsa, Vice President of AISSF. G.W. 13 denied the suggestion that the slogans were inserted in the last part of Ex. G-17 as an after thought. To the cross-examination made by Mr. Bhatalia, learned counsel also appearing for the AISSF, G.W. 13 has stated that he got the signature of the witnesses in the notes and that the names of the witnesses are Mohanlal son of Ram Ratan, resident of Anand Nagar, Tripuri Town, and Nirenjan Singh son of Manjal, Guru Nanak Gali, Tripuri. G.W. 13 denied the suggestion to the effect that Ex. G-17 was prepared at the behest of his superior officers. In the re-examination G.W. 13 has specifically stated that Ex. G-17 has been forwarded to the Supdt. of Police, Special Branch, Office of the Inspector General of Police, C.I.D., Chandigarh with one copy each to the Deputy Commissioner and Senior Supdt. of Police, Patiala. Thus, it is clear from the evidence of G.W. 13, that a convention of AISSF was held on 18-2-1984 in front of Gurdwara Dukh Niwaran Sahab, Patiala and in that convention, pro-Khalistan slogans were raised. This direct evidence makes it clear that the AISSF is clear in its aim to have a separate homeland for Sikhs and has also raised pro-Khalistan slogans.

29. G.W. 16 D. D. Sharma, Asstt. Commissioner of Police, Shada, Delhi, speaks about the meeting held on 21-2-1984 at Gurudwara Bangla Sahab. The information regarding that meeting was received by G.W. 16 from the Govt. of Punjab, which is marked as Ex. G-21. In Ex. G-21 it was mentioned that a convention of the AISSF will be held on 19-2-1984 at Delhi but actually, according to G.W. 16, it was held on 21-2-1984. G.W. 16 was able to hear some of the speeches made in the convention and also heard the names of the speakers through the mike. It is G.W. 16 who deputed G.W. 15 for recording the speeches made by the speakers in that convention. Ex. G-22 is the report drafted by him and submitted to the Deputy Commissioner. According to G.W. 16, the main trend

of the speeches was, they were critical of the happenings in Haryana and some of the speakers delivered incriminatory speeches injuring the religious sentiments of the Hindus.

Referring to the speech of Gurdep Singh Shagal, G.W. 16 said, that the former spoke that once they had suffered when India was divided and Pakistan was formed and the loss that they had suffered would be made good after the formation of Khalistan and that he would kill 50,000 Hindus but not 5,000 Hindus as stated by Sant Jarnail Singh Bhindranwale. No doubt, G.W. 16 says that this particular speech was reported to him by the Sub Inspector. Referring to the speech of Prof. Jaspal Singh, G.W. 16 states, that Prof. Jaspal Singh spoke that they should put a strong Sikh as President, purchase arms and get ready to achieve their rights in the correct method. This speaker also cautioned the Government against committing excesses on Sikhs and threatened that if they committed excesses on Sikhs, it would be the beginning of the formation of Khalistan. G.W. 16 also referred to the speech made by Manjit Singh Calcutta, who asked the Sikhs to follow the path and dictates of Sant Jarnail Singh Bhindranwale.

In the cross-examination, G.W. 16 says that Ex. G-19 was supplied to him by the Sub Inspector Richipal Singh (G.W. 14), who had obtained it from his source. The rest of his cross-examination is diverted on the opinion of G.W. 16 regarding the speeches. There is absolutely nothing in the cross-examination of G.W. 16 to discredit his evidence and nothing is suggested that G.W. 16 was not present in the meeting. The evidence of G.W. 16 clearly establishes that the members of AISSF in the convention made speeches which are clearly secessionist in character and which create disharmony between the Hindus and Sikhs.

30. G.W. 15, Sarwan Singh, Sub Inspector of Police, C.I.D., special Branch, Delhi, was deputed by G.W. 16 to cover the AISSF convention held at Delhi on 21-2-1984. According to G.W. 15, he remained in the Gurudwara Bangla Sahab from 6-00 A.M. to 2-00 P.M., on 21-2-84 and heard the speeches through the loudspeaker. He took down notes of the speeches made in the convention and then reduced the same in the form of a report. He produced a photostate copy of the report given by him, which is marked as Ex. G-20. According to G.W. 15, Prof. Jaspal Singh said that when something cannot be achieved by peaceful means, the same has to be achieved by swords, that the President of India is only a Congressman and that the Hindus have insulted Sikh women. In the cross-examination, Mr. Bhatalia, learned counsel for AISSF, elicited from G.W. 15 that he heard the names of the speakers from the announcement made by the State Secretary, that the slogans raised were "Sant Jarnail Singh Bhindranwale Zindabad, Students Federation Zindabad, Khalsa Panth Zindabad" and that he has given the resolution passed at the convention in his report. Ex. G-22 is the report prepared by G.W. 16 based on G.W. 15's report Ex. G-20. In Ex. G-22 it is stated that Sukhbir Singh Khalistan spoke as follows :—

"they would not only include Punjab, Haryana and Himachal Pradesh in Khalistan but

would take into possession 93 per cent of the area in India. He asked the Sikhs to procure arms and ammunition and also to manufacture bombs so that they could take revenge for the disrespect shown to their Gurudwaras."

It is further mentioned in the report Ex. G-22 that resolutions were passed and one of the resolutions is that full co-operation will be given for the achievement of Anandpur Sahib Resolutions.

Mr. Bhatalia and Mr. Guru Charan Singh, learned counsel for AISSF, who cross-examined G.W. 15, did not suggest anything with regard to the presence of G.W. 15 at the convention on 21-2-1984 at Gurudwara Bangla Sahib, Delhi, nor questioned the report Ex. G-20 as incorrect. Nothing has been elicited from G.W. 15 in the cross-examination to discredit his testimony. The evidence of G.Ws. 15 and 16 and the reports Ex. G-20 and G-22 reply establish that the purpose of such a convention is to instill in the mind of Sikh population to fight for the formation of a separate State called Khalistan, independent of the Indian Union.

31. G.W. 21, Swaran Singh, Sub Inspector/ Language Stenographer, C.I.D., Punjab, covered the convention of AISSF held at Chandigarh on 31-1-1984. He filed the shorthand note in which he has taken the speeches of the various speakers in that convention and the same is marked as Ex. G-27. G.W. 21 deposes that Sukhjinder Singh, M.L.A., said that every nation of the world has its own country, that it is only Sikhs who are unfortunate in not possessing a country of their own and that they should strive towards that purpose. According to G.W. 21, Gur Tej Singh, Ex. I.A.S., eulogised the leadership of Sant Jarnail Singh Bhindranwale and said that under his leadership they should strive to achieve their independence. G.W. 21 also heard Gur Seva Singh Dhillon saying that they very much wished that they could also at some time live in an independent country. G.W. 21 then heard Narinder Singh calling upon the students to come forward to preserve the existence of the Sikh Quam. G.W. 21 deposed that one Amar Singh Ambalvi said that the resolution of Anandpur Sahib should be implemented and that he also eulogised the leadership of Sant Jarnail Singh Bhindranwale and expressed the hope that under his leadership they will achieve their aim. Principal Mohinder Singh of Moga, according to G.W. 21, said that Khalsa will not bow down before anybody and that their fight will continue till they achieve independence. One Barpur Singh Balbir, according to G.W. 21, said that the Anandpur Sahib Resolution provides for a Khud Mukhtar, that Khud Mukhtar means, one's own Raj without the participation of anybody else that in case police or army enters Dharbar Sahib or any attempt is made to arrest Sant Jarnail Singh Bhindranwale, the result will be disaster and India will be divided. The next speaker, according to G.W. 21, is Amarjit Singh Chawla, Joint Secretary of AISSF, who called upon the Sikh students to become members of the AISSF in large numbers. According to G.W. 21, Exs. G-28 and G-28(a) contain all the above statements of the several speakers. G.W. 21 further said

that the members of the convention raised the following slogans :

“AISSF Zindabad; Bhindranwale Zindabad, Bhindranwale Santh Sipahi; Jisne Sutti Quam Jaggai; Jai police Darbar Sahib wih Barri Fook Dayange Delhi Sarri.”

G.W. 21 was cross-examined by Mr. Guru Charan Singh, learned counsel for AISSF, and I find nothing worth mentioning in the cross-examination to discredit the veracity of the evidence of G.W. 21. No doubt, the learned counsel made a point with regard to the blank space in the shorthand note book Ex. G-27. Mr. Anand Swarup, learned counsel for the Central Government, in the re-examination of G.W. 21 elicited that the blank space in the shorthand note book exists because as soon as the speech of one speaker is finished, they will start writing only on the next page and that sometimes some space is left while at other time no space is left. Thus, an explanation has been given by G.W. 21 for the blank spaces left in Ex. G-27. G.W. 21's evidence also clearly establishes the secessionist propaganda made by the members of AISSF in this convention.

32. Apart from the above direct oral and documentary evidence, we have various special reports gathered by the officers of the Police Department through their sources. These sources, according to the officers concerned, were planted inside the Gurudwaras since the police cannot enter Gurudwaras where such meetings were held.

33. G.W. 3 Harjit Singh, I.P.S., is the Supdt. of Police, C.I.D., Amritsar. He received reports from his sources about the Gurmat Training Camp held at Golden Temple on 29th and 30th December, 1983. He got the information and reduced it into writing, which is marked as Ex. G-5. Its English translation is Ex. G-5(a). According to G.W. 3, one Major General Subeg Singh spoke on 29-12-1983 in which he had stated that they had made a mistake by not having a separate Sikh State and they were suffering therefrom. He also stressed that if occasion comes, they will not repeat the old mistake. One Barpur Singh Balbir and Bhai Amrik Singh, President of AISSF, addressed in that camp. They endorsed the speech of the previous speakers and said that they needed sophisticated weapons in the place of the traditional ones and that there is no need for any licence for keeping such weapons. This Gurmat Training Camp continued on 30-12-1983 also. It is clear from Ex. G-5(a), that one Major General Subeg Singh said that the Hindu Government is making every effort to keep the Sikhs under subjugation, that the Sikhs tolerated excesses committed by the Hindus and that the Government made every effort to finish the Sikhs in a hidden way but this Guru Panth can never be finished. According to Ex. G-5(a), this speaker further said that their leaders have made a blunder by not having a separate Sikh State and that if opportunity comes, they will not commit the mistake again. One Barpur Singh Balbir, Ex-editor of Akali Patrika, it is stated in Ex. G-5(a), had said that the Sikhs should have modern weapons, that they need no licence to keep the weapons, that Sikhism will only survive if Sikh rule is established, that Sikh rule cannot be established unless leaders of the Akali Dal and all other religious leaders assemble

under the Kcsari Nishan Sahib and that the Anandpur Sahib Resolution must be fulfilled. Gurmat Training Camp held on 30-12-83. Jaswant Singh, retired Brigadier said that the Sikh nation will go ahead to achieve the Anandpur Sahib Resolution.

The above said evidence of G.W. 3 and Exs. G-5(a) and G-6(a) clearly establish the purport of the Gurmat Training Camps and as to how the speakers aimed at preaching secessionism among the members present there.

34. G.W. 7 Hardish Singh Randhawa is the Deputy Supdt. of Police, Detective, Kapurthala. He has given a special report Ex. G-11 and its English translation is Ex. G-11(a). According to Ex. G-11(a), one Prof. Devinder Singh of Chandigarh, while addressing the Gurmat Training Camp on 27-12-1983, said that Sikhs are a separate nation. In that camp, Principal Mohinder Singh of Guru Nanak College, Moga, said, that the Sikh nation did everything to help the Hindus, that when the country was divided, three separate nations were recognised viz. Muslims, Hindus and the Sikhs, that the tri-colour flag represented the same and that in this tri-colour flag, Kesari is for the Sikhs, green for the Muslims and the third for the Hindus.

35. G.W. 9 is Sardar Ajit Singh, Sub Inspector of Police, C.I.D., Amritsar. He speaks about the Gurmat Training Camp organised by the AISSF inside the Golden Temple Complex on 28-12-1983. He got information through his source and took notes from the said information. The said notes is Ex. G-12 and its English translation is Ex. G-12(a). According to these notes, G.W. 9 says, one Mohinder Singh Dhariwal of Guru Nanak College, spoke that Hindu imperialism is bent upon finishing the Sikhs and the Sikhs will have their separate homeland because of this ill-treatment. G.W. 9 also states from Ex. G-12(a) that one Gurtej Singh, I.A.S., said that young men should assemble under the Kcsari Nishan flag and compel the Government to accept their demands. It has been elicited from G.W. 9 in the cross-examination by Mr. R. S. Sodi, learned counsel for AISSF, that the camp was organised by Bhai Amrik Singh, President of the AISSF, that Bhai Amrik Singh held press conference and announced in the papers that he is holding Gurmat Training Camps on the specified dates and that during that camp Bhai Amrik Singh was present. To a specific question put to G.W. 9 in the cross-examination, he said that his source will never tell lies since they are on regular duty. Ex. G-12(a) report clearly corroborates the evidence of G.W. 9. Thus, the information gathered by G.W. 9 and his report Ex. G-12(-) amply establish the aspiration of the AISSF to have an independent State for Sikhs.

36. The next witness to speak about the report obtained through his source is G.W. 10, Balbir Singh, Deputy Supdt. of Police, C.I.D., Amritsar. He got information about the Gurmat Training Camp being held at the Golden Temple Complex, that he covered through his source the proceedings of the camp held on 31-12-1983. He also states that this camp was organised by the AISSF from

26-12-1983 to 31-12-1983. The information supplied by his source was reduced into writing and on that basis G.W. 10 prepared the report Ex. G-13 and its English translation is Ex. G-13(a). According to G.W. 10, one Sukhjinder Singh, Ex-Education Minister, Punjab, said, that the acceptance of Anandpur Sahib Resolution is the gist of all their demands and that the acceptance of these resolutions will be the symbol of the independent existence of the Sikh Quam. Mr. Anand Swarup, learned counsel for the Central Government, interpreting the word "Quam" said that in the context of the Anandpur Sahib Resolution and the speeches made, it is the demand for a separate nation for the Sikhs called Khalistan. G.W. 10 further said that in that camp Sant Jarnail Singh Bhindranwale also spoke.

37. G.W. 10 also covered the proceedings of the two day Central Executive Committee meeting of the AISSF and the Presidents of the District Units of the AISSF. He has specifically stated in his evidence and also in his report Ex. G-14, the English translation of which is Ex. G-14(a), that a resolution has been passed in that meeting to the effect that to combat Hindu imperialism, it is necessary that unity be forged between Sikhs and Muslims and for that purpose, joint meetings of Muslims and Sikhs should be organised in different parts of India. In the third resolution, according to G.W. 10, the AISSF appreciated the action of Akali Dal leaders in burning Article 25 of the Constitution of India and stated that the AISSF did not consider this as enough. It is further mentioned in that resolution, according to G.W. 10, that in order to solve the problems of Sikhs, a separate constitution will have to be drafted on the lines of Anandpur Sahib Resolution. G.W. 10 also spoke about the fourth resolution passed by the Central Executive Committee of the AISSF, under which the AISSF assured the Sikhs of Haryana and other States of its full co-operation and advised them to acquire arms for their security. It is further stated by G.W. 10 that resolutions were passed in that meeting stating that preparations will be made for the fulfilment of Anandpur Sahib Resolution and the idea of Raj Karenga Khalsa (Khalsa will rule) will be put in practice because this resolution is a symbol of distinct existence of the Sikhs and also its guarantee. It is not necessary for me to extract the various other resolutions passed in that meeting and spoken to by G.W. 10, suffice it to say that the speakers wanted a separate constitution to be prepared to implement the Anandpur Sahib Resolutions. On the last day of the Central Executive Committee meeting, according to G.W. 10, Sant Jarnail Singh Bhindranwale addressed the gathering and also propagated to form suicide squads to fight against police.

Mr. Guru Charan Singh, learned counsel for the AISSF cross-examined G.W. 10 and elicited from him that Bhai Amrik Singh, President of AISSF, Harminder Singh Sandhu, General Secretary of AISSF, Rajinder Singh Metha, Organising Secretary of AISSF, Sarjit Singh, President of the Jammu Unit of AISSF, Virsa Singh, Publicity Secretary of AISSF, Surender Singh Jothl, member of the Working Committee of AISSF, Amarjit Singh Chawla, Member of the Working Committee of AISSF, Justbir Singh Ghumman, Activist of AISSF and Sant

Jarnail Singh Bhindranwale, patron of the AISSF spoke in that meeting. It has also been elicited in the cross-examination of G.W. 10 that Raj Karenga Khalsa is a slogan of separation—Khalsa will rule.

Thus, the evidence of G.W. 10 and the reports Exs. G-13(a) and G-14(a) make it clear that the AISSF is bent upon implementing the Anandpur Sahib Resolutions and also to fight for the establishment of a separate Sikh State.

38. It is relevant in this context to know about the Anandpur Sahib Resolutions, to which reference was made in the evidence by the witnesses examined on the side of the Central Government. Ex. G-23 is the White Paper on the Punjab agitation. In this White Paper, Anandpur Sahib Resolution authenticated by Sant Harchand Singh Longowal has been marked as Ex. G-23(b). At page 79 of G-23(b), some of the resolutions adopted by the Working Committee of the Shiromani Akali Dal at its meeting held at Sri Anandpur Sahib on 16th and 17th October, 1973, were given. Under the caption "(B) Purposes", Clause 2 reads as follows :—

"To preserve and keep alive the concept of distinct and independent identity of the Panth and to create an environment in which national sentiments and aspirations of the Sikh Panth will find full expression, satisfaction and growth."

At page 82 of Ex. G-23(b), there is a reference regarding the political aspiration of the Sikhs. It is stated therein as follows :—

"The political goal of the Panth, without doubt, is enshrined in the commandments of the Tenth Lord, in the pages of the Sikh history and in the very heart of the Khalsa Panth, the ultimate objective of which is the pre-eminence of the Khalsa."

The fundamental policy of the Shiromani Akali Dal is to seek the realisation of this birth right of the Khalsa through creation of congenial environment and a political set up."

It is, therefore, clear from Ex. G-23(b), that the Sikhs want to preserve the interests of the Sikhs and Sikhism in an atmosphere which is congenial for such preservation. These resolutions and objectives of Anandpur Sahib Resolutions clearly indicate that Khalsa Panth alone should dominate, which cannot be achieved in the Republic of India, which is secular in nature. As rightly put forth by Mr. Anand Swarup, learned counsel for the Central Government, such resolutions are fore-runners for the demand of Khalistan and that has been given expression to in the constitution of the AISSF under Article 2(C) viz., Exs. G-4 and G-4(a).

39. Point No. 2.—This is the first ground for the issue of Ex. G-1 Notification viz., the AISSF has been organising training camps, meetings and conventions in different places where the activists of the AISSF as well as others have been delivering speeches which are prejudicial to the maintenance of harmony between the Sikhs and Hindus and which tend to incite

the Sikhs to equip themselves with arms and resort to force. The following evidence has been placed before me in this regard.

40. G.W. 4 Jogindar Singh is the Inspector of Police, C.I.D., Amritsar. He spoke about the procession held by the AISSE, Dal Khalsa, Nihang Group and other Sikh Organisations on 31-5-81 at Amritsar and the other incidents that occurred during the course of that day. In that procession, according to G.W. 4, the following slogans were raised :

- "1. Na Hindu Na Hindustan Ban Ke Rahaga Khalistan (Neither Hindus nor Hindustan but Khalistan will certainly come into existence).
2. Khalistan Zindabad.
3. Tiranga Lah Deange—Kesari Chara Deange (Pull down the national tri-colour flag and hoist the kesari flag).
4. Dhoti Topi Jamuna Par (Dhoti Topi should be beyond Jamuna)."

G.W. 4 also spoke about the incident where eight or nine Hindus, who were standing near Suraj Transport Company, were chased by the participants to some distance. G.W. 4 has given Ex. G-7 report. Its English translation is Ex. G-7(a). In that report, it is stated, that the processionists also raised slogans to the effect "Panth De Gabru Gajan Ge—Mono Shehar to Bhanjange". This means that the young men of the Panth will roar and the non-Sikhs will run away from the city. It is further stated in Ex. G-7(a) that the processionists smashed a stall belonging to one Ram Nath, attacked the shop belonging to Kishan Lal Chawla and the tea stall of Sachdev. They also inflicted injuries to Tilak Raj and Nasar. According to G.W. 4, a great tension prevailed between the Sikhs and Hindus.

41. G.W. 15, Sarwan Singh, Sub-Inspector of Police, Special Branch, C.I.D., Delhi, covered the convention held on 21-2-1984 at Gurudwara Bangla Sahib, Delhi. In that convention, according to G.W. 15, Prof. Jaspal Singh stated that Hindus have insulted the Sikh women. The report submitted by G.W. 15 in Urdu is Ex. G-20. On the basis of Ex. G-20, G.W. 16 prepared Ex. G-22 report. In his evidence, G.W. 16 has stated that the main trend of the speeches made in the convention is regarding the happenings in Haryana, that some of the speakers delivered incriminatory speeches injuring the religious sentiments of the Hindus and some others made derogatory references and tried to inflame the sentiments of the masses against the Government and Hindus. Referring to the speech of Gurdeep Singh Shagal, G.W. 16 in his report states, that Gurdeep Singh Shagal, referring to the claim of Sant Jarnail Singh Bhindranwale who stated that he would kill 5,000 Hindus, said that it would not be 5,000 Hindus, but would be 50,000. In his report Ex. G-22, G.W. 16 has stated that Prof. Rattan Singh spoke as follows :—

"He added that the women were stripped and insulted. Rediculing the Hindus of Panipat, he said that history bore testimony to

the fact that Ahmed Shah Abdali had taken away a large number of Hindu women from Panipat itself, who were later rescued by the Sikhs from Lahore."

In Ex. G-22 it is further stated that Gurdeep Singh Shagal lamented that it would bring tears from anybody's eyes to hear that 1,500 strong mob had pulled the hair of head and beard of a Sikh in Haryana, that the Hindus are worse than Muslims, and that the Hindus, tree worshippers, have forgotten the fact as to who got independence to them and that it was the Sikh Gurus who saved the honour of Hindus. In Ex. G-22 it is stated that Harminder Singh Kalhon spoke in that meeting as follows :—

"This was false belief that Muslim were their big enemies, it was rather the Hindus who ran the administration of Muslim rulers and perpetrated atrocities on them. He disclosed that the incidents of Panipat and Karnal have indicated that they had not correctly identified their enemy."

G.W. 16 has referred to in his report Ex. G-22 about the speech made by Prof. Jaspal Singh, which runs thus :—

"He called upon them that it was their duty to take revenge. He asserted that a time has come when they should put a strong Sikh as President, purchase arms and get ready to achieve their rights in the correct method. He cautioned the Government against committing excesses on Sikhs and threatened that if they continued to commit excesses it would be the beginning of the formation of the Khalistan."

Then, G.W. 16 referred to the speech of Manjit Singh Calcutta, who spoke as follows :—

"He said that Shri Bhajan Lal's and the Prime Minister's Government like Mughal rulers committed atrocities on Sikhs. He pointed out that 12 Sikhs were killed in Panipat and Karnal and this was being done in order to terrify Sikhs living in other States to brow beat the Akali leaders to withdraw their morcha. He said that not a single incident occurred where Hindu was burnt or Hindu woman was insulted during the period of 1-1/2 years of their morcha but in Panipat, Guru Granth Sahib was burnt and Sikhs were insulted. He said, with pride, that this panth had produced Banda Bahadur and Subeg Singh, therefore, it would not be possible to enslave the Sikhs through Giani Zail Singh, Boota Singh, Richpal Singh and Harbans Singh Manchanda. He asked the Sikhs to keep themselves in full preparation as the situation similar to Haryana could develop in Delhi also."

It is the further report of G.W. 16 in Ex. G-22 that one Balwant Singh of Panipat said that their turbans were removed and set on fire and their beards

were clipped. Nothing has been elicited in the cross-examination of G.W. 16 to discredit his testimony. The evidence of G.W. 16 and the reports referred to above amply establish that offences under Sections 153-A and 153-B of the Indian Penal Code have been committed by the members of AISSF.

42. The next witness who speaks about this aspect of the case is G.W. 21, Swaran Singh, Sub-Inspector Language Stenographer, C.I.D., Punjab. He personally heard one Bakshish Singh Dayalpuri speaking at the convention held on 31-1-1984 at Chandigarh organised by the AISSF, to the effect that the Hindus had been suppressing the Sikhs for the last 36 years and that it cannot be tolerated any further. Nothing has been elicited in the cross-examination of G.W. 21 on this aspect of the case.

43. Apart from the above said evidence, we have the documentary evidence in the shape of Exs. G-5(a), G-11(a) and G-14(a), to substantiate this part of the ground in the notification put forth by the Central Government. Ex. G-5(a) is the proceedings of the Gurmat Training Camp organised by the AISSF at the building of Langar Guru Ram Dass on 29-12-83. In this camp, Major General Subeg Singh said that the Hindus and the Hindu Government made every effort to keep the Sikhs under subjugation, that it is another matter that the Sikhs tolerated excesses committed by the Hindus and that the Government made every effort to finish the Sikhs in a hidden way but this Guru Panth can never be finished. He also said that as at present, Hindu majority consider the Sikhs as second rate citizens, that it is evident from the historical facts how the Hindus majority sacrificed the Sikhs at the altar of freedom and that the Sikhs made sacrifices, but the Hindus grabbed the higher posts.

44. Ex. G-11(a) is the report of the proceedings of the Gurmat Training Camp of the AISSF on 27-12-1983. This report is given by C.W. 7 in which it has been stated that Prof. Devinder Singh of Chandigarh, while addressing the trainees, said that the traditions and principles of Sikhism are different from those of Hindus, and that the Hindus due to their majority, are treating the Sikhs like Jains, Budhies and other communities. He also said that the Sikhs are different principally but the Hindus consider them Hindus, with hair. In Ex. G-11(a), the speech of Principal Mohinder Singh of Guru Nanak College, Moga, was also given. He spoke that as many as 36 years have elapsed when the democracy was established in India, that since then the Hindus have been subjugating the Sikhs and in order to finish the Sikh nation, the tricks of all types are being played and that nobody could finish the Sikh nation and none would be able to finish them.

45. The next report which can be usefully referred to in this connection is Ex. G-14(a). This is the report given by G.W. 10 regarding the special meeting of the Central Committee of the AISSF and the District Presidents of the AISSF held under the Presidentship of Bhai Amrik Singh at Guru Ram Dass Langar on 26-2-1984 and 27-2-1984. In this meeting Bhai Amrik Singh has made it clear to the student community and the Sikh youths that the members of the Hindu religion under the garb of Congress at first used to consider the Sikhs as second rate citizens and

then started discrimination against them and then began to treat them as slaves and are now coming forward to annihilate them. Referring to Virsa Singh's speech. Ex. G-14(a) says, that the exhorted the young men that before doing anything else it was necessary to finish Bhajan Lal and that it would be a matter of great chivalry if he is beheaded like Massa Ranghar and his head is placed in the feet of Sant Jarnail Singh Bhindaranwale at Amritsar. The report further says that, continuing the speech Bhai Amrik Singh said, that killing of one Bhajan Lal would not solve the problem, that they have to fight the majority ruling Government of India, that therefore, they would have to organise the student community and the youths by forming units in every village and that not only this, but it would have to be made clear to the Government, that in case a Sikh in any part of India lost even a drop of blood, they would cut the head of a Hindu. Referring to the speech of Surinder Singh Sodhi, Ex. G-14(a) says, "Bhai Ji you are in dark; whereas you are banking on the faith on Hindus, posters have been published in Delhi that in case copies of constitutions were burnt, they would burn Guru Granth Sahib. The report also makes, reference of the utterances of Bhai Amrik Singh to the effect that during the curfew, another point has come to the notice that Hindus are being openly supplied with licences and fire-arms and as against this, the Sikhs are being dubbed as extremists and police squads are running in the village like mad dogs. Finally, the report extracted the speech of Sant Jarnail Singh Bhindaranwale, who addressed the gathering on the last day of the meeting. His speech runs thus :

"In India there was at first the question of turban and cap only but to please Shri Rajiv Gandhi, the Chief Minister of Haryana, has started the problem of beard and moustaches. In order to lead a life of honour and respectability in India, it has become necessary for them to take a decision. So, it is the need of the hour that in order to safeguard Sikhism, safeguard to Gurudwaras, safeguard the religious books, safeguard the life and property and honour of the Sikhs living in other States, they should remain fully prepared for an armed battle. The moment C.R.P.F. or the armed forces of Central Government attacks Harmandir Sahib, they should not wait for any orders but wherever they are, they should take whatever action they can take. Suicide squads should be formed to avenge the evil doers and such organisations should be compulsorily formed in every village. Whenever the police enters a village and becomes aggressive, these suicide squads should fight against the police."

46. Point No. 4 :—Having thus analysed the evidence, both oral and documentary, placed before me, in detail, let me consider whether that evidence affords sufficient cause for declaring the AISSF an unlawful association. i.e., whether the activities of the AISSF squarely fall within either under Section 2(g) (i) or 2(g) (ii) or both of Section 2 of the Act ?

47. All the witnesses except three are police officers. Some have deposed to the facts which they

have actually seen or heard in the course of their official duty ; some have deposed to the facts secured by them in the course of their official duty while some others have deposed to the facts reported to them in the course of their official duty by persons who were direct witnesses to the facts spoken to by them. Excepting the procession that was taken by the AISSF along with the other associations on 31-5-1981 and the incident that happened in the District Court, Amritsar, on 16-7-1983, the Gurmat Training Camps conducted by the AISSF from 26-12-1983 to 31-12-83 followed by the Central Executive Committee meeting of the AISSF, the convention held on 31-1-1984 at Chandigarh and on 18-2-84 at Patiala and the meeting held on 21-2-1984 at Delhi, were all in the Gurudwaras, i.e., the place of worship of the Sikhs. It will be relevant in this context to take into consideration the situation prevailing in that part of this country at the relevant period. It is a well known fact that till the army action in June, 1984, none of the law enforcing agencies, the police or the security forces could enter the Gurudwaras nor they were allowed to enter. The Government lest it might not offend or wound the religious feelings and sentiments of the Sikhs, was hesitant in sending the law enforcing agencies inside the Gurudwaras. The organisations like the AISSF, taking advantage of that religious privilege and the hesitant attitude of the Government, were having all the activities inside the Gurudwaras. Not only religion and politics were mixed together but that the religious leaders like sant Jarnail Singh Bhindranwale have been actually patronising and sponsoring all these movements. It is in the evidence of G.N. 13 that if the police enters Darbar Sahib, the AISSF would reduce Delhi to ashes. It is also the evidence of GW 21, that one Bapur Singh Balbir openly posed a threat that in case police enters Darbar Sahib or any attempt is made to arrest Sant Jarnail Singh Bhindranwale, the result will be disaster. It is stated in Ex. G-14(a) that Sant Jarnail Singh Bhindranwale, who addressed the gathering on the last day of the meeting, had threatened that the moment the CRPF or the armed forces of the Central Government attack the Harmandir Sahib, they should take whatever action they can take. This sort of open threat posed to the Central Government by the AISSF, its activists and its patron and the highly explosive nature of the situation made the law enforcing agencies feel hesitant to enter the Gurudwaras. The law enforcing agencies can, therefore, collect information about the deliberations at these meetings and conventions only through their sources. These sources, or informants are men planted by the police within the organisation itself. It is in the evidence of GW5 that Sardar Bachan Singh, the Deputy Supdt. of Police, Headquarters, Amritsar, who gave Ex-G-8 report, along with his wife, daughter, son and his two gunmen, was later killed by the extremists, had planted his own son Hira in the AISSF and collected through him, 80 per cent of the information. It was the further evidence of GW 5 that he was also in the hit-list of Sant Jarnail Singh Bhindranwale along with Sardar Bachan Singh. This Part of the evidence of GW 5, which is unrebutted, clearly pictures the situation in which the police and other law enforcing agencies are placed. Only at the risk of their life and that of their kith and kin, they could gather information. When such is the position of the police, there can

hardly be any evidence of independent witnesses nor can such an evidence be expected in the circumstances. It is not as if the evidence of these witnesses is not tested. These witnesses have been subjected to cross-examination. Their testimony cannot be ignored or discarded or viewed with suspicion because they are police officers. They have either themselves collected the information or collected the information through their sources or informants. They did this in the discharge of their duties as public servants. Further, most of the officials who collected the information either by themselves or through their sources are themselves Sikhs. Had it been by officers belonging to Hindu religion, there may be reason to believe that the reports are exaggerated versions. The information obtained through sources cannot be ignored as hearsay evidence because that was the only method available to the police, in the peculiar circumstances, to get information. Further, it is not the contention of the AISSF that no meetings, conventions, training camps and processions as alleged, were held or taken out and that the whole thing is an imagination of the Central Government. No suggestion was made to any of the witness that none of the participants in the training camps, meetings and conventions have uttered the words attributed to them in the evidence. The unrebutted evidence, therefore, clearly proves that the processions, training camps, conventions and meetings as alleged were held or convened by the AISSF. The reports from the information obtained from the sources cannot be ignored as hearsay because that was the only method available to the police in the prevalent circumstances. Nor can the testimony of the police officers be thrown out as interested because they spoke as to what they saw and heard, in the course of their duties as public servants. Nor can their evidence viewed with suspicion because most of them are Sikhs and the stigma, if any, that can be attached had they belonged to Hindu religion, is no longer there. I, therefore, hold that the best of evidence had been placed before me and I am inclined to rely upon the same.

48. There is the evidence of GW 2 and Exs. G-4 and G-4(a) which clearly establish that the object of the AISSF is the succession of a Part of the territory of India and the formation of a separate State independent of Bharat. Article 2(c) of the constitution of the AISSF (Ex. G-4(a)) clearly spells out the object of the AISSF viz. to awaken a sense of separate entity and nationality amongst Sikh students.

49. There is also ample evidence that the AISSF and its members have undertaken actions which are intended to bring about the succession of a part of the territory of India and the creation of a separate Sikh State called Khalistan, independent of India.

50. There is the direct evidence of GW 9 and his reports Exs G17 & G17(a) about the procession taken by the AISSF on 31-5-1981 in which several slogans were raised. These slogans prove that the object of the AISSF is to have Khalistan, a separate homeland for Sikhs, i.e. to bring about secession.

51. The evidence of GWs 5, 6 and 7 and Exs G-8 G-9, G-9(a), G-10 and G-10(a) clearly establish that

on 15-8-1982 at a meeting of the AISSF it was decided to dishonour the national flag by pulling it down and tearing it and that accordingly, one of its members viz. Mana Singh, actually rushed towards the national flag raising pro-Khalistan slogans and that he was over-powered, arrested and interrogated and that the said Mana Singh admitted this incident during such interrogation.

52. There is the evidence of GW-11 who brought Bhai Amrik Singh, the President of the AISSF, and his companion Bhai Tara Singh, to the District Court, Amritsar on 16-7-1983 and GW-12, who was present at the District Court, Amritsar, for maintaining law and order, and

Exs. G-15, G-15(a), G-16, G-16(a) and G-16(b), which clearly prove that Bhai Amrik Singh, President of AISSF, raised pro-Khalistan slogans, preached secession and instigated his supporters present there to get themselves armed in order to create a separate Khalistan.

53. There is the further evidence of G. Ws. 3, 15, 16 and 21 and Exs. G-17, G-17(a), G-18, G-20, G-21, G-22, G-27, G-28 and G-28(a) which not only prove that the AISSF held conventions on 18-2-1984 at Patiala, on 21-2-1984 at Delhi and on 31-1-1984 at Chandigarh respectively, but that its members and other participants of the conventions made speeches intending to bring about secession of a part of the territory of India and the formation of a separate Sikh nation called Khalistan. Besides, these direct oral and documentary evidence, there is the further indirect oral and documentary evidence of G. Ws. 3, 7, 9 and 10 and Exs. G-5, G-5(a) and G-6 and G-6(a), G-11 and G-11(a), G-12 and G-12(a) and G-13 and G-13(a), which establish that the AISSF held Gurmat Training Camps from 26-12-1983 to 31-12-1983 wherein the office bearers of the AISSF and other participants spoke about the formation of Khalistan and the implementation of Anandpur Sahib Resolutions and preached secession.

54. The Anandpur Resolution that is referred to frequently by the office-bearers of the AISSF and others in their speeches is the fore-runner for the demand for Khalistan and it aims at the domination of Khalsa Panth which cannot be achieved in the Republic of India, which is secular in character. It is this resolution that is given went through Article 2(c) of the constitution of AISSF in Exs. G-4 and G-4(a).

55. The oral and documentary evidence, both direct and indirect, discussed by me in detail in paragraphs supra, clearly establish that the AISSF not only had for its object secession of a part of the territory of India and the creation of Khalistan but it also encouraged its members and others to bring about secession through its action and activities and speeches of its members and activists.

56. There is the evidence of G. W. 4 and his report Exs. G-7 and G-7(a), who was present at the procession organised by AISSF along with others on 31-5-1981 at Amritsar. His evidence proves that the processionists raised anti-Hindu slogans during the procession and attacked the Hindu and their shops after the procession ended.

57. There is the further evidence of G. Ws. 15 and 16 and Exs. G-20, G-21 and G-22 and G.W. 21 that in the conventions held at Delhi on 21-2-1984 and at Chandigarh on 31-1-1984 by the AISSF, the speakers made speeches which tend to create hatred in the minds of Sikhs towards the Hindus and to make the Sikhs to resort to force.

58. There is also indirect oral and documentary evidence in Exs. G-5(a) and G-11(a). These reports about the proceedings of the Gurmat Training Camps held by the AISSF on 29-12-1983 and 27-12-1983 respectively given by G. W. 3 and G.W. 7 respectively on information obtained from their respective sources, clearly establish that the speakers at the training camps incited the Sikhs against the Hindus, thereby creating communal disharmony.

59. Similarly, Ex. G-14(a), the report given by G. W. 1C on information obtained from his source about the special meeting of the Central Committee and District Presidents of AISSF on 27-2-1984 clearly proves that the President of the AISSF, Bhai Amrik Singh, and Sant Jarnail Singh Bhindranwale, the Patron of AISSF, spoke at this meeting which created hatred towards Hindus and incited the Sikhs to resort to violence.

60. The oral and documentary evidence discussed in detail by me in Paragraphs supra clearly prove that the AISSF held training camps, conventions and meetings and in those meetings, the office-bearers and members of the AISSF as well as others have made speeches which are prejudicial to the maintenance of harmony between Sikhs and Hindus and which incited the Sikhs to equip themselves with arms and resort to force.

61. The evidence, oral and documentary, adduced by the Central Government, therefore, clearly makes out that the AISSF not only had for its object

secession of a part of the territory of India and the creation of Khalistan, a separate homeland for the Sikh independent of Bharat, but had also encouraged its members and other persons and incited them to bring about secession and the formation of Khalistan. The evidence adduced by the Central Government also makes out that the AISSF had for its object activities which are offences punishable under Section 153-A and 153-B of the Indian Penal Code and that it encouraged the office-bearers, members and others to undertake such activities.

62. I, therefore, hold, that there is sufficient cause for the Central Government for declaring the AISSF to be an unlawful association and I accord-

ingly confirm the declaration made in the Notification Ex. G-1 dated 19th March, 1984.

63. A copy of this order is directed to be forwarded to the Central Government immediately for being published in the Official Gazette of India. This order along with the enclosed record of the proceedings of the Tribunal in relation to the AISSF including the depositions recorded and the exhibits filed herein will also be forwarded to the Central Government.

(Sd/-)

September 6, 1984.

P. R. GOKULAKRISHNAN, Judge
[No. II/17017/47/84-IS(US-D. II)]
Dr. SUNDEEP KHANNA, Dy. Secy.